

Clear Form

**FILED**

**FEB 14 2020**

SUSAN Y. SOONG  
CLERK, U.S. DISTRICT COURT  
NORTH DISTRICT OF CALIFORNIA

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA**

George J. Austin, esq. (TBA)

Plaintiff,

vs.

Tesla, et. al.

Defendant.

CASE NO. 3:20cv00800

**APPLICATION TO PROCEED  
IN FORMA PAUPERIS**

**(Non-prisoner cases only)**

I, George J. Austin, esq. (TBA), declare, under penalty of perjury that I am the plaintiff in the above entitled case and that the information I offer throughout this application is true and correct. I offer this application in support of my request to proceed without being required to prepay the full amount of fees, costs or give security. I state that because of my poverty I am unable to pay the costs of this action or give security, and that I believe that I am entitled to relief.

In support of this application, I provide the following information:

1. Are you presently employed? Yes \_\_\_ No ☒

If your answer is "yes," state both your gross and net salary or wages per month, and give the name and address of your employer:

Gross: \_\_\_\_\_ Net: \_\_\_\_\_

Employer: \_\_\_\_\_

If the answer is "no," state the date of last employment and the amount of the gross and net salary

1 and wages per month which you received.

2 Balance/Tesla/MVP

3 See attachment for detailed numbers and explanation. Because this is part of claim

4 it is necessary to specify for clarity and integrity purposes.

5 2. Have you received, within the past twelve (12) months, any money from any of the  
6 following sources:

7 a. Business, Profession or Yes \_\_\_\_ No ☒

8 self employment?

9 b. Income from stocks, bonds, Yes \_\_\_\_ No ☒

10 or royalties?

11 c. Rent payments? Yes \_\_\_\_ No ☒

12 d. Pensions, annuities, or Yes \_\_\_\_ No ☒

13 life insurance payments?

14 e. Federal or State welfare payments, Yes \_\_\_\_ No ☒

15 Social Security or other govern-

16 ment source?

17 If the answer is "yes" to any of the above, describe each source of money and state the amount  
18 received from each.

19 Stock is partially unknown and am double checking with Tesla right now for performance  
20 award, & other potential stock awards. Will amend if I find out before I receive acceptance.

21 3. Are you married? Yes \_\_\_\_ No ☒

22 Spouse's Full Name: \_\_\_\_\_

23 Spouse's Place of Employment: \_\_\_\_\_

24 Spouse's Monthly Salary, Wages or Income:

25 Gross \$ \_\_\_\_\_ Net \$ \_\_\_\_\_

26 4. a. List amount you contribute to your spouse's support:\$ \_\_\_\_\_

27 b. List the persons other than your spouse who are dependent upon you for support  
28 and indicate how much you contribute toward their support. (NOTE: For minor

children, list only their initials and ages. DO NOT INCLUDE THEIR NAMES.)

5. Do you own or are you buying a home? Yes \_\_\_\_ No ☒

Estimated Market Value: \$ \_\_\_\_\_ Amount of Mortgage: \$ \_\_\_\_\_

6. Do you own an automobile? Yes \_\_\_\_ No ☒

Make \_\_\_\_\_ Year \_\_\_\_\_ Model \_\_\_\_\_

Is it financed? Yes \_\_\_\_ No \_\_\_\_ If so, Total due: \$ \_\_\_\_\_

Monthly Payment: \$ \_\_\_\_\_

7. Do you have a bank account? Yes ☒ No \_\_\_\_ (Do not include account numbers.)

Name(s) and address(es) of bank: Bank of the West

Present balance(s): \$ 400.00

Do you own any cash? Yes ☒ No \_\_\_\_ Amount: \$ 400.00

Do you have any other assets? (If "yes," provide a description of each asset and its estimated market value.) Yes \_\_\_\_ No ☒

8. What are your monthly expenses?

Rent: \$ \_\_\_\_\_ Utilities: \_\_\_\_\_

Food: \$ \_\_\_\_\_ Clothing: \_\_\_\_\_

Charge Accounts:

| <u>Name of Account</u> | <u>Monthly Payment</u> | <u>Total Owed on This Account</u> |
|------------------------|------------------------|-----------------------------------|
| Visa                   | \$ 150.00              | \$ 5000.00                        |
| Mastercard             | \$ 25.00               | \$ 500.00                         |
|                        | \$ _____               | \$ _____                          |

9. Do you have any other debts? (List current obligations, indicating amounts and to whom they are payable. Do not include account numbers.)

Over 100K in student loans

10. Does the complaint which you are seeking to file raise claims that have been presented in other lawsuits? Yes \_\_\_\_ No ☒

Please list the case name(s) and number(s) of the prior lawsuit(s), and the name of the court in which they were filed.

I declare under the penalty of perjury that the foregoing is true and correct and understand that a false statement herein may result in the dismissal of my claims.

DATE

SIGNATURE OF APPLICANT



2/13/2020

PLAINTIFF'S APPLICATION FOR PROCEEDING IN FORMA PAUPERIS ADDENDA

Plaintiff, George J. Austin, esq. (TBA) filed Complaint and an Application to Proceed in Forma Pauperis. ECF Nos. 1, 2. Pursuant to 28 U.S.C. sec. 1915, a district court may authorize the commencement of a civil action in forma pauperis if it is satisfied the plaintiff cannot pay the filing fees necessary to pursue the action. 28 U.S.C. sec. 1915(a)(1). The policy for allowing a plaintiff to proceed in forma pauperis is to protect litigant from abandoning "what may be a meritorious claim in order to spare themselves complete destitution." Adkins v. E.I. DuPont de Nemours & Co., 335 U.S. 331, 340 (1948). The ability to pay does not require that plaintiffs contribute their "last dollar" or "make themselves and their dependents wholly destitute." Adkins v. E.I. DuPont de Nemours & Co., 335 U.S. 331, 339 (1948). Plaintiff George Austin, hereby continues that application as my present income is zero. The last time clocked in to work at Tesla was on January 14th. I have applied to Unemployment insurance which due to my salary should award at or near the maximum allowable (according to their documents), but have not received payment, yet.

The complexity of salary question regarding Gross and Net is two-fold a) I wasn't aware when initially beginning of the ability to create the amount of variance in income due to overtime, and performance bonus(es), and want to be as clear and honest as possible. Thus, the need for inclusion of range. Additionally, part of my salary/wage appears to have been stolen (which is part of claim), and not received by me, but accounted to me via my social security number. Accordingly, provide the range, but haven't received all of that income personally, yet (though it has been credited to me via my social security number, checks made out to my name, etc.). I will also file taxes, including them, to avoid personal fraud charges although it appears the company itself appears to have been fraudulent, and thieving.

According to the W-2 I received for one set of checks the average monthly gross salary was approximately 4,400 monthly (see attached). From what I actually received my annual salary appears on pace to be approximately \$55,000-\$60,000 gross (as the amount of overtime slowed a bit due to injury on Thanksgiving, but would have picked back up when fully healed). The overtime amount can significantly shift the total salary because of a) time and a half and b) chunk scheduling (12 hr shifts). The work system Tesla uses allows for significant gains, and variance, in potential pay. However, when factoring in what appears to have been stolen, the annual salary appears potentially over 100K (on a pro rata basis using the available financials). I've included the weekly checks from both sets/ledgers in the amended complaint so that you can cross reference for yourself.

Plaintiff also provides a summary analysis of fundamental claims in anticipation of the Court's requirement to engage in a preliminary screening of any complaint filed by a plaintiff proceeding in forma pauperis to ensure the complaint is not frivolous, states a claim, and does not seek monetary relief against a defendant who is immune from such relief. 28 U.S.C. sec. 1915(e)(2). Pro se pleadings must be liberally construed. Balistreri v. Pacifica Police Dep't, 901 F.2d 696 (9th Cir. 1990). Accordingly below are statement(s) of claim(s)

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1 meeting that standard:

2 1. Prima Facie Defamation Per Se (in the workplace) a) lie b) that causes damages to one's reputation, and c) is so damaging on their  
3 face the harm is assumed. Examples of lies so damaging on their face that they would be classified as Defamation Per Se include  
4 a) assertion of someone's criminal activity b) assertion of someone being incompetent to their role, c) a lie designed to cause injury,  
5 and clearly one to get negative action in the workplace against them, including demotion, or wrongful termination. In this case a) and  
6 c) are both applicable. The lie a) was that I recorded a supervisor against California Code which was also a cause of negative actions  
7 which appears to have resulted in wrongful termination (which I have yet to receive in writing, but have multiple copies recorded  
8 and transcribed). What makes it worse (although already untrue) is that it was not even asked about, or investigated to see  
9 the veracity of the statement, or integrity of person. There is no evidence, because it's untrue, but they didn't even check to see,  
10 an failure of due diligence, if there was. Even more reprehensible is the entire Company has been sued, and lost, for this exact behavior  
11 on employees ""On April 19, 2017, Tesla factory workers filed unfair labor practice charges with the National Labor Relations Board,  
12 alleging that Tesla uses "illegal surveillance, coercion, intimidation and prevention of worker communications [...] in an effort to  
13 prevent or otherwise hinder unionization of the Fremont factory." (see National Labor Relations Board charges, and ruling).

14 2. Prima Facie Wage Claim. The Equal Pay Act and Wage Theft Prevention Acts are designed to ensure everyone regardless of  
15 protected class status is paid fairly, and equally, for their work. Accordingly, if you a) were not paid equally, or accordingly  
16 and b) you are in a protected category (in this case male and female), then you can utilize this statute. Prima Facie Wage Claim  
17 a) disparity in pay from what should have and what was paid b) in a protected category (in this case both men and women,  
18 although the historical concern is women due to the legacy of gender discrimination in pay). During the time period between  
19 7/22/19-1/14/20, I've had checks made out to me over \$45,000 yet I only received approximately less than half (disparity). b) I am in  
20 a protected category, and thus eligible under Wage Claim.

21 3. Prima Facie Whistle-blower Claim. To be considered a whistleblower in the United States, most federal whistleblower statutes  
22 require that employees have reason to believe their employer violated some law, rule, or regulation ; testify or commence a legal  
23 proceeding on the legally protected matter; or refuse to violate the law. Prima Facie Whistleblower Claim a) be classified as a  
24 whistle blower via recognition of employer wrongful behavior and appropriate response b) report the wrongful company  
25 behavior which helps classify one as a whistleblower and c) have negative action based on appropriately responding, including  
26 but not limited to demotion and or wrongful termination. Plaintiff recognized what appeared to be discrepancy and through  
27 seeking correction of those errors, violation(s) of the Wage/Pay laws and other laws, and reporting up the chain of company command,  
28 had negative action including Defamation Per Se and Wrongful Termination enacted on him in retaliation.



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4. Prima Facie Civil Conspiracy. A civil conspiracy or collusion is an agreement between two or more parties to deprive a third party of legal rights or deceive a third party to obtain an illegal objective[1] A conspiracy may also refer to a group of people who make an agreement to form a partnership in which each member becomes the agent or partner of every other member and engage in planning or agreeing to commit some act. It is not necessary that the conspirators be involved in all stages of planning or be aware of all details. Any voluntary agreement and some overt act by one conspirator in furtherance of the plan are the main elements necessary to prove a conspiracy. A conspiracy may exist whether legal means are used to accomplish illegal results, or illegal means used to accomplish something legal. Even when no crime is involved, a civil action for conspiracy may be brought by the persons who were damaged. In the law of tort, the legal elements necessary to establish a civil conspiracy are substantially the same as for establishing a criminal conspiracy, i.e. there is an agreement between two or more natural persons to break the law at some time in the future or to achieve a lawful aim by unlawful means. The criminal law often requires one of the conspirators to take an overt step to accomplish the illegal act to demonstrate the reality of their intention to break the law, whereas in a civil conspiracy, an overt act towards accomplishing the wrongful goal may not be required. According to the American Bar Civil conspiracy claims are a powerful tool for plaintiffs, particularly consumer plaintiffs. A successful civil conspiracy claim permits recovery from every participant in a wrongful act, regardless of whether or not that participant was a direct perpetrator of the act. Here three companies and several of their agents, acted in concert, and agreement, through a variety of overt action (including lying, and defamation per se) to deprive plaintiff of rights in violation of multiple Federal and State laws.

6. Prima Facie Wrongful Termination (via protected activity/whistleblowing). To establish a prima facie whistle blowing wrongful termination case, an employee must establish that: 1) he was a member of a protected class or engaged in protected activities (i.e. whistleblowing) 2) he was performing competently in the position he held: 3) he suffered an adverse employment action, such as demotion, or termination; and 4) "some other circumstance that suggests retaliatory motive." See *Monavian v. Department of Justice* (29108) 28 Cal.App.5th 1127, 2241. See *McDonnell Douglas Corp. v. Green*, 411 U.S. 792 (1973); Plaintiff engaged in protected activities, whistle-blowing, was performing competently in the position, suffered an adverse employment action, wrongful termination in retaliation to that protected activity.

Accordingly, Pursuant to 28 U.S.C. sec. 1915 Plaintiff, George J. Austin, esq. (TBA) hereby applies to continue to Proceed in Forma Pauperis (ECF Nos. 1, 2). Plaintiff applies to a district court who may authorize the commencement of a civil action due to Plaintiff's current inability to pay the filing fees necessary to pursue the action (due to unlawful actions of defendants). 28 U.S.C . sec. 1915(a)(1).

George J. Austin, esq. (TBA). Plaintiff, Attorney of Record,

## Defendant No. 1

|                                  |   |
|----------------------------------|---|
| Name                             | Unknown (Refused to Give Full Name when asked)          |
| Job or Title <i>(if known)</i>   | Supervisor of Criminal Department Forms/Document Intake |
| Street Address                   | 180 E Weber Ave   |
| City and County                  | Stockton, San Joaquin                                   |
| State and Zip Code               | CA, 95202   |
| Telephone Number                 | (209) 992-5555  |
| E-mail Address <i>(if known)</i> | hr@sjcourts.org   |

## Defendant No. 2

|                                  |  |
|----------------------------------|--|
| Name                             |  |
| Job or Title <i>(if known)</i>   |  |
| Street Address                   |  |
| City and County                  |  |
| State and Zip Code               |  |
| Telephone Number                 |  |
| E-mail Address <i>(if known)</i> |  |

## Defendant No. 3

|                                  |                                     |
|----------------------------------|-------------------------------------|
| Name                             | Emily Michelle Chrim #301973        |
| Job or Title <i>(if known)</i>   | San Joaquin Court Appointed Counsel |
| Street Address                   | 821 N El Dorado St, Ste 102,        |
| City and County                  | Stockton, San Joaquin               |
| State and Zip Code               | CA 95202-1603                       |
| Telephone Number                 | (209) 762-3462                      |
| E-mail Address <i>(if known)</i> | chrimlegal@gmail.com                |

## Defendant No. 4

|                                  |  |
|----------------------------------|--|
| Name                             |  |
| Job or Title <i>(if known)</i>   |  |
| Street Address                   |  |
| City and County                  |  |
| State and Zip Code               |  |
| Telephone Number                 |  |
| E-mail Address <i>(if known)</i> |  |



## Defendant No. 1

|                                  |   |
|----------------------------------|---|
| Name                             | Unknown (Refused to Give Full Name when asked)          |
| Job or Title <i>(if known)</i>   | Supervisor of Criminal Department Forms/Document Intake |
| Street Address                   | 180 E Weber Ave   |
| City and County                  | Stockton, San Joaquin                                   |
| State and Zip Code               | CA, 95202   |
| Telephone Number                 | (209) 992-5555  |
| E-mail Address <i>(if known)</i> | hr@sjcourts.org   |

## Defendant No. 2

|                                  |  |
|----------------------------------|--|
| Name                             |  |
| Job or Title <i>(if known)</i>   |  |
| Street Address                   |  |
| City and County                  |  |
| State and Zip Code               |  |
| Telephone Number                 |  |
| E-mail Address <i>(if known)</i> |  |

## Defendant No. 3

|                                  |                                     |
|----------------------------------|-------------------------------------|
| Name                             | Emily Michelle Chrim #301973        |
| Job or Title <i>(if known)</i>   | San Joaquin Court Appointed Counsel |
| Street Address                   | 821 N El Dorado St, Ste 102,        |
| City and County                  | Stockton, San Joaquin               |
| State and Zip Code               | CA 95202-1603                       |
| Telephone Number                 | (209) 762-3462                      |
| E-mail Address <i>(if known)</i> | chrimlegal@gmail.com                |

## Defendant No. 4

|                                  |  |
|----------------------------------|--|
| Name                             |  |
| Job or Title <i>(if known)</i>   |  |
| Street Address                   |  |
| City and County                  |  |
| State and Zip Code               |  |
| Telephone Number                 |  |
| E-mail Address <i>(if known)</i> |  |